S.B. CIVIL WRIT PETITION NO.3943/2004

Mishri Singh vs. State of Rajasthan and others

Date : 27.1.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. P.S. Rathore, for the petitioner.

Mr. L.R. Upadhyay, for the respondents.

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Heard learned counsel for the parties.

The Additional Commissioner, Colonisation cum Revenue Appellate Authority, Jaisalmer vide order dated 12.8.2004 remanded the matter to the lower authority after setting aside the order dated 24.1.2001 and directed that in case, there is no dispute about the land in question and if the petitioner's claim falls within the Rules, then the land in question may be allotted to the petitioner. Copy of order dated 12.8.2004 of the Additional Commissioner, Colonisation cum Revenue Appellate Authority, Jaisalmer is placed on record as Annex.7.

Learned counsel for the petitioner submits that before the order dated 12.8.2004 (Annex.7), an order was passed by the Additional Commissioner, Colonisation, Bikaner on 19.6.2004 by which the land in question has been allotted to one Govind Ram.

Learned counsel for the petitioner submits that the land which was first notified for allotment under

Rule 13A of the Rajasthan Colonisation (Allotment and Sale of Government Land in Indira Gandhi Canal Area) Rules, 1975, cannot be allotted without denotifying it for allotment.

According to learned counsel for the petitioner, the land in question has been allotted to respondent Govind Ram on the ground that he is an Ex-Military personnel.

Since the order dated 19.6.2004 is admittedly an appealable order, therefore, the petitioner can raise all his objections in appeal against the allotment of land in favour of respondent Govind Ram where the entire matter can be examined by the appellate authority.

In view of the above, this writ petition is dismissed as the petitioner has got effective alternative remedy.

In case, the petitioner submits an appeal within two months from today, the appellate authority may consider the appeal on merits after condoning the delay for which the petitioner may submit an appropriate application.

(PRAKASH TATIA), J.

S.Phophaliya